

## **TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

### **NOTICE OF PROPOSED RULEMAKING FOR THE HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM**

**NOTICE IS HEREBY GIVEN** that the Department of Housing and Community Development (Department) proposes to formally amend regulations which govern implementation of the State Home Investment Partnerships Program (HOME). The existing regulations are codified in Title 25, Subchapter 2 (commencing with section 8200) of the California Code of Regulations.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period begins February 13, 2009 and closes at 5:00 p.m. on March 30, 2009. The Department will consider comments received during this timeframe. Please address your e-mail comments to Christina DiFrancesco at [cdifrancesco@hcd.ca.gov](mailto:cdifrancesco@hcd.ca.gov). Written comments can also be sent via mail to Christina DiFrancesco, Department of Housing and Community Development, P.O. Box 952054, Sacramento, California 94252-2054, or via fax to (916) 322-2904, attention: Christina DiFrancesco.

#### **PUBLIC HEARING**

No public hearing is scheduled on the proposed regulatory amendments. However, any interested person, or his or her duly authorized representative, may request a public hearing no later than 15 days prior to the close of the written comment period.

#### **AUTHORITY AND REFERENCE**

HCD is conducting this rulemaking activity pursuant to the authority provided by Health and Safety Code Sections 50406 and 50896.3(b). These regulations implement, interpret and make specific amendments to Chapter 12 (commencing with Section 50896) of Part 2 of Division 31 of the Health & Safety Code.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Health and Safety Code 50407 establishes that the Department is responsible for coordinating federal-state relationships in housing and community development. In conjunction with this responsibility, Health and Safety Code section 50406 directs the Department to be responsible for the allocation of Federal Home Investment Partnership Program funds. Consequently, the State of California receives money from the U.S. Department of Housing and Urban Development to make grants to eligible cities and counties and direct loans and grants to private organizations that qualify as Community Housing Development

Organizations (CHDOs). These regulations establish procedures for the award and disbursement of HOME funds and establish policies and procedures for the use of these funds to meet the purposes contained in Title II of Public Law No. 101-625, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act of 1990 as amended by the Housing and Community Development Housing Act of 1992, Public Law No. 102-550. These funds can be used for a variety of housing-related uses provided the State, the cities and counties and the CHDOs comply with a comprehensive set of requirements prescribed by the Federal government regulations in 24 CFR part 92.

The proposed changes to the State HOME Regulations are summarized as follows.

### **Section 8217. PROJECT DEADLINES**

Amendments to subsection (c): (1) clarify that in order to receive a waiver of performance penalties under this section, the violation(s) have to be clearly outside the control of all specified parties: applicant, developer, owner, managing general partner. (2) Permit waiver of the "hold-out penalty" set forth under 8217 (b) (3) (A) for three missed project deadlines.

### **IMPACT OF PROPOSED REGULATIONS**

#### **LOCAL MANDATE**

The Department has determined that these regulations do not impose a mandate on local agencies or school districts. Eligibility for the program is limited to entities demonstrating willingness and capacity to develop and administer affordable housing. In any case, participation in the program is voluntary.

#### **FISCAL IMPACT**

The Department has determined that no savings or increased costs to any State agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in Federal funding to the State will result from the proposed action.

#### **EFFECT ON SMALL BUSINESS**

The Department has determined that the proposed action has no impact on small business because participation in the HOME Program is voluntary.

#### **EFFECT ON HOUSING COSTS**

The Department has determined that the proposed action has no significant impact on housing costs in California.

## **INITIAL DETERMINATION OF STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES**

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

## **ASSESSMENT STATEMENT**

The Department has determined that the regulations will not affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California. In any case, participation in the program is voluntary.

## **COST IMPACTS ON PRIVATE PERSONS OR BUSINESSES DIRECTLY AFFECTED**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. While private businesses (including nonprofits) and individuals are eligible to receive program funds under the program, participation is voluntary.

## **CONSIDERATION OF ALTERNATIVES**

The Department of Housing and Community Development must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **AVAILABILITY OF TEXT OF PROPOSED REGULATIONS AND STATEMENT OF REASONS**

The text of the proposed regulations is available upon request, along with the Initial Statement of Reasons, prepared by the Department, which provides the reasons for the proposals, and is available on the Department's web site, at <http://www.hcd.ca.gov/fa/home/>. All information the Department is considering as a basis for this proposal is maintained in a rulemaking file, which is available for inspection at the address noted below. Copies can be obtained by contacting Christina DiFrancesco at the address and telephone number noted below.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text--with changes clearly indicated--available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Christina DiFrancesco at the address indicated below. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting Christina DiFrancesco at the address and telephone number noted below.

### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact person named below.

### **CONTACT PERSON**

**HCD:** CHRISTINA DIFRANCESCO  
(916) 322- 0918

**HCD BACK-UP:** LENORA FRAZIER  
(916) 323-7288

**HCD Address:** State Department of Housing and Community  
Development  
1800 Third Street, Room 390  
Sacramento, California 95814

**HCD Website:** Copies of the Notice of Proposed Action, the Initial  
Statement of Reasons, and the text of the regulations may  
be accessed through our website at:  
**<http://www.hcd.ca.gov/fa/home/>**

**HCD Facsimile No:** (916) 322-2904

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. Inquiries concerning the substance of the proposed rulemaking action, as well as request for the documents noted should be directed to:

**Christina DiFrancesco, HOME Program Specialist**  
**Department of Housing and Community Development**  
**1800 Third Street, Suite 390**  
**Sacramento, California 95814**  
**Telephone (916) 322-0918**  
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